

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Brett et al.

Attorney Docket No.: BOLTP001

Application No.: 10/563,675

Examiner: Unassigned

Filed: January 6, 2006

Group: Unassigned

Title: SYSTEM AND METHOD FOR SENSING
AND INTERPRETING DYNAMIC FORCES

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this paper and the documents and/or fees referred to as attached therein are being deposited with the United States Postal Service on October 10, 2006, in an envelope as "Express Mail Post Office to Addressee" service under 37 CFR §1.10, Mailing Label Number EV 62202 7514 US, addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

Signed: _____

Ann Lowe

PETITION FOR APPLICATION BY OTHER THAN ALL THE INVENTORS
Pursuant to 37 C.F.R. §1.47 (a) and MPEP §409.03(d)

Commissioner of Patent
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants **Peter BRETT and Xianghong MA** hereby petition the Commissioner to accept for application the above-identified U.S. patent application by other than all of the inventors.

A Statement of Facts in support of this petition is attached. The last known address of Anthony Molloy is 17 Mariner Avenue, Edgbaston, Birmingham B16 9DF. The required fee pursuant to 37 C.F.R. §1.17(i) is enclosed; our check number 1555.

The remaining joint inventors are believed to be entitled to make such an application on behalf of the omitted inventor.

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP

Jonathan O. Scott
Reg. No. 39,364

10/16/2006 ATRAM1 00000126 10563675
02 FC:1464 130.00 OP

Beyer Weaver & Thomas, LLP
P.O. Box 70250
Oakland, CA 94612-0250
Telephone: (612) 252-3330
Facsimile: (612) 825-6304

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STATEMENT OF FACTS
37 C.F.R. §1.47 (a)

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Angela Kukula, do hereby state:

1. I am the Head of Contracts and Intellectual Property Rights for Aston University, the Applicant for the international application from which the above-identified U.S. patent application has entered the national stage in the United States. Aston University is also the assignee of the priority application from which the international application and the above-identified U.S. patent application claim priority, namely, UK patent application No. GB0316002.5, entitled "Dynamic Sensing System," filed July 9, 2003.
2. On October 13, 2003 Mr. Anthony Molloy signed a declaration stating that he was a joint inventor of this UK patent application along with Professor Peter Brett and Dr. Xianghong Ma (see Exhibit A).
3. On October 13, 2003 Mr. Anthony Molloy signed an assignment assigning all rights in any inventions included in this UK patent application to Aston University (see Exhibit B).
4. Currently, Mr. Molloy is in a dispute with the other two inventors and has not been cooperative regarding signing a declaration for the above-identified U.S. patent application.
5. On 3rd July, 2006 and 19th April, 2006, I mailed to Mr. Molloy a U.S. declaration along with a copy of the above-identified U.S. patent application and a cover letter asking that he sign the declaration (see Exhibit C).
6. Mr. Molloy did not sign that declaration and did not return any of that paperwork. Instead, Mr. Molloy sent a letter in reply stating that he does not recall assigning his rights to Aston University and asking for proof (Exhibit D).

9. On numerous occasions from about 19th April, 2004 to about 31st July, 2006 I have telephoned Mr. Molloy and he has either not answered my call or has not returned my call.

10. Based on my interactions with Mr. Molloy, I conclude that he is refusing to sign the declaration for the above-identified U.S. patent application.

Signed,



Angela Kukula

Head of Contracts and IPR, Aston University

19/9/06

EXHIBIT A

business partnership unit



DECLARATION

I, Mr Anthony Molloy
of _____

I am a
joint inventor with Dr Xianghong Ma
Professor Peter Brett

of an invention relating to A dynamic surface distributive sensing
system

(as described in British Patent Application No. 0316002.5....., entitled
.....Dynamic Sensing System (Short Title)

Signed

A handwritten signature in black ink, appearing to be 'A. Molloy'.

date

13/10/03

Witness

A handwritten signature in black ink, appearing to be 'P. Brett'.

EXHIBIT B

DATED 13 /10 /03

(1) ANTHONY MOLLOY

(2) ASTON UNIVERSITY

ASSIGNMENT OF IPR
BY A STUDENT TO THE UNIVERSITY

THIS DEED OF ASSIGNMENT is made on 13/10/03

BETWEEN:

- (1) ANTHONY MOLLOY of Flat 4, Crantock Court, 203 Hagley Road, Edgbaston, B16 9RE ("the Student"); and
- (2) ASTON UNIVERSITY whose administrative offices are at Aston Triangle, Birmingham B4 7ET ("the University").

IT IS HEREBY AGREED as follows:

1. PRELIMINARY

The Student is the creator of certain intellectual property rights and in consideration of receiving a share of any benefits of commercialisation realised in respect of the intellectual property rights, is prepared to assign them to the University on the terms set out below.

2. DEFINITIONS

In this Deed of Assignment the following terms shall have the following meanings:

"Confidential Information" means all secret or confidential commercial, financial and technical information, knowhow, trade secrets, inventions, computer software and other information whatsoever and in whatever form or medium and whether disclosed orally or in writing, together with all reproductions in whatsoever form or medium and any part or parts of it;

"Invention" Means the invention(s) described in Schedule 1

"IPR" means the Invention;, and any patents, trade marks, domain names, database right, copyright, registered designs, design right, Confidential Information and all other intellectual property rights arising from the Invention wheresoever subsisting in any part of the world and applications for protection of any of the above rights and any part or parts thereof;

"Rights" means all right title and interest in and to the IPR together with all rights powers privileges and immunities thereby conferred on the proprietor thereof including without limitation all accrued rights of action and remedies in respect of any infringement of such rights and the right to apply for prosecute and obtain patent or other available protection throughout the world in respect of patentable inventions including the right to claim priority therefrom.

3. ASSIGNMENT

The Student HEREBY ASSIGNS the Rights to the University with full title guarantee.

4. CONSIDERATION

In consideration of the assignment in clause 3, the Student will be entitled to receive a share of any benefits which arise from exploitation of the Intellectual Property Rights which are received by Aston. The share due to the Student will be calculated in accordance with the sliding scale which is set out the University Financial Notes of Guidance as reviewed from time to time (the current scale – as at the date of this agreement - is set out in Schedule 2) and in this respect the Student will be treated as if he were a member of the University staff.

5. WARRANTY

The Student hereby warrants that:

- 5.1 The Student is the joint inventor of the Invention with Dr Peter Brett and Dr Xianghong Ma
- 5.2 The Student has not granted or attempted or purported to grant to any third party any interest in or rights whatsoever relating to the IPR;
- 5.3 To the best of his knowledge, there is no other person or entity entitled to claim any rights in the IPR;
- 5.4 The Student has not received any notification:-
 - 5.4.1 that the Intellectual Property Rights infringe the Intellectual Property rights of any third party; or
 - 5.4.2 challenging the validity and/or subsistence of the Intellectual Property Rights.
- 5.5 To the best of his knowledge and belief the Rights do not and exploitation of the same by the University will not infringe any valid and subsisting intellectual property right of any other third party. For the avoidance of doubt, in respect of this warranty, the University acknowledges that the student has not made any particular enquiries and his knowledge is limited to those sources that were available to him in the course of his research. This warranty will not apply to any intellectual property right of any third party that has not been made available to the public as of the date of this agreement.

6. LAW

This Assignment shall be governed in accordance with the laws of England and Wales.

7. JURISDICTION

Any dispute arising under this Agreement shall be subject to the exclusive jurisdiction of the English courts and the parties waive any objection to proceedings in such courts on the grounds of venue or on the grounds that proceedings have been brought in an inappropriate forum.

IN WITNESS of which this agreement has been executed on the day and year first above written.

SCHEDULE 1

THE INVENTION

The invention described in UK patent application number ...GB0316002.5

Entitled.....DYNAMIC SENSING SYSTEM.....

And filed on.....9TH JULY 2003.....

SCHEDULE 2

APPENDIX H OF THE UNIVERSITY FINANCIAL NOTES OF GUIDANCE AS AT 15 JAN 2004

EXPLOITATION OF INTELLECTUAL PROPERTY

Benefits that arise from the exploitation of intellectual property will be apportioned between the inventor(s) and the University in accordance with the following sliding scale.

	<i>Inventor</i>	<i>University</i>
On the first £4,350 of income	100%	0%
On the next £4,350 of income	80%	20%
On the next £4,350 of income	70%	30%
On the next £8,700 of income	60%	40%
On the remainder of the income	50%	50%

Signed by
ANTHONY MOLLOY



)
)

Signed by David Packham (Secretary-Registrar)
for and on behalf of
ASTON UNIVERSITY

)
)
)

EXHIBIT C

Our reference:

Your reference:

Exhibit C (1)
1st letter to
Anthony Molloy

Anthony Molloy
c/o Primasil Silicones Ltd.
Kington Road
Weobley
Herefordshire
HR4 8QU

Dr Angela K. Kukula
Head of Contracts and IPR
Business Partnership Unit

Tel: +44 (0)121 204 4251
Email: a.kukula@aston.ac.uk

Date: 19th April, 2006

Dear Anthony,

RE: PATENT APPLICATION – DYNAMIC SENSING SYSTEM

Please accept my apologies for contacting you at work but unfortunately we do not seem to have an up to date address for you.

We have recently received correspondence from the US and Canadian patent offices (where the above patent application has now been filed as a national application) enclosing a form that requires signature by the inventors. I would be grateful if you could please sign the form where indicated and have your signature witnessed. Please then return the form to me at the address above. If you have any queries please do not hesitate to contact me.

If there is another address you would prefer that I used for future correspondence please let me know. We will need up to date contact details for you to ensure that any revenue resulting from this application can be distributed promptly.

Many thanks

With my best regards

Dr Angela K. Kukula

Our reference:

Your reference:

Exhibit C (2)
2nd letter to
Anthony Molloy

Anthony Molloy
17 Mariner Avenue
Edgbaston
Birmingham
B16 9DF

Dr Angela K. Kukula
Head of Contracts and IPR
Business Partnership Unit

Tel: +44 (0)121 204 4251
Email: a.kukula@aston.ac.uk

Date: 3rd July, 2006

Dear Anthony,

RE: PATENT OFFICE FORMS

We have recently received the following forms in respect of the patent application for the dynamic surface sensing system that require your signature:

1. Assignment (Patent, Patent Application) (Canada) - This is a confirmation required by the Canadian patent office that your rights in the invention have been assigned to Aston University. This needs to be completed by you in the presence of a witness who should then add their name and address and sign where indicated.
2. Assignment of Patent Application (USA) - Similar to the above Canadian assignment, this confirms to the US patent office that you have assigned your rights to Aston. This needs to be signed in the presence of two witnesses who should sign, date and print their names where indicated.
3. Declaration and Power of Attorney (USA) - This requires you to confirm that you are an inventor and gives permission for our US patent attorneys to act on your behalf in the US, in respect of this application. This just requires your signature and a date.

I am also providing a copy of the international patent application on which the US and Canadian applications are based along with a copy of the amendments to the patent that have been filed in the US for your reference.

We have been given an absolute deadline of 31st July for returning these forms to the US patent office. I would therefore be grateful if you could complete them and return them to me as soon as possible.

If you have any questions please do not hesitate to contact me.

With my best regards

Yours Sincerely

Dr Angela K. Kukula

EXHIBIT D

Exhibit D

Received → 24 JUL 2006

Dr Angela Kukula
Business Partnership Unit
Aston University
Aston Triangle
Birmingham B4 7ET

5th July, 2006

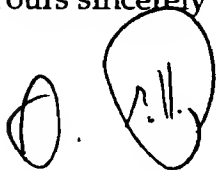
Dear Angela

Re: Patent Office Forms

Following your letter dated 3rd July 2006 I do not recall assigning my rights to Aston University.

I would appreciate your comments on when you believe this took place.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Molloy', enclosed within a hand-drawn oval.

Anthony Molloy